



General Assembly

January Session, 2013

Raised Bill No. 6538

LCO No. 3682



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING ARBORISTS AND TREE WARDENS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) For the purposes of
2 sections 2 to 7, inclusive, of this act:

3 (1) "Arborist business" means any business that wholly, or in part,
4 holds itself out for hire to perform arboriculture.

5 (2) "Arboriculture" has the same meaning as provided in section 23-
6 61a of the general statutes.

7 (3) "Place of business" means any physical location at or through
8 which the functional operations of business regularly occur, including,
9 but not limited to, financial transactions, arrangement of contracts,
10 assignment of contracts, assignment of work and record keeping.
11 "Place of business" does not include buildings or locations used solely
12 for storage of equipment or supplies or any telephone answering
13 service.

14 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) No person shall engage

15 in the operation of an arborist business unless such person has a
16 certificate of registration from the Commissioner of Energy and
17 Environmental Protection. A certificate of registration shall expire on
18 the thirty-first day of August next succeeding its issuance. Any
19 arborist business with more than one place of business in the state or
20 that operates under more than one name shall register and pay the
21 application fee for each place of business and for each business name.

22 (b) Application for a certificate of registration shall be made on such
23 form as the commissioner may prescribe and with such information as
24 the commissioner deems necessary to fulfill the purposes of sections 2
25 to 7, inclusive, of this act, provided such information shall, at a
26 minimum, include the following: (1) The applicant's name and
27 residential address, (2) the name, address and telephone number of the
28 place of business, (3) the name and license number of the licensed
29 arborist employed by the arborist business, and (4) the type of
30 business. Each arborist business shall notify the commissioner of any
31 change in the information contained in an application or in the status
32 of the business as an arborist business. Such notification shall be
33 submitted, in writing, not more than thirty days after any change.

34 (c) An application for a certificate of registration shall be
35 accompanied by payment of a fee of two hundred forty dollars. The
36 commissioner may waive payment of the fee for the initial renewal of a
37 certificate of registration issued during the three months prior to
38 expiration of such certificate of registration. An application for a
39 certificate of registration or renewal shall not be deemed to be
40 complete or sufficient until the applicable fee is paid in full.

41 (d) Notwithstanding the provisions of section 22a-66c of the general
42 statutes, any person who complies with the registration requirements
43 of this section shall not be required to register such arborist business
44 pursuant to section 22a-66c of the general statutes if such arborist
45 business also engages in pesticide application.

46 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) The commissioner shall,
47 after review of a complete application submitted in accordance with
48 the provisions of section 2 of this act, issue or deny a certificate of
49 registration. The commissioner shall inform an applicant of a denial of
50 a certificate of registration by certified mail, return receipt requested.
51 The commissioner shall briefly state the reasons, as listed in subsection
52 (c) of this section, for such denial. Any applicant aggrieved by the
53 commissioner's decision to deny a certificate of registration may, not
54 later than thirty days after the date of such decision, request a hearing
55 before the commissioner. Such hearing shall be held in accordance
56 with the provisions of chapter 54 of the general statutes.

57 (b) The commissioner may revoke or suspend a certificate of
58 registration in accordance with the provisions of subsection (c) of this
59 section and section 4-182 of the general statutes.

60 (c) The grounds for denial, revocation or suspension of a certificate
61 of registration shall include the following:

62 (1) Violation of any provision of chapter 441 or 451 of the general
63 statutes or any regulation, permit, certificate, registration or order
64 adopted, issued or administered or issued pursuant to said chapters;

65 (2) Inclusion of false or misleading information in an application or
66 the failure to notify the commissioner of a change, as required by
67 section 2 of this act;

68 (3) Inclusion of false or misleading information in records required
69 to be maintained pursuant to section 5 of this act, or the failure to
70 maintain such records or provide the commissioner with the records
71 required by said section;

72 (4) Use of a pesticide in a manner inconsistent with the registered
73 labeling or with state or federal restrictions on the use of such
74 pesticide;

75 (5) Application of pesticides generally known in the trade to be
76 ineffective or improper for the intended use;

77 (6) Operation of faulty or unsafe equipment which may result in
78 improper pesticide application or harm to the environment, a worker
79 or other persons;

80 (7) Application of a pesticide or performance of arboriculture in a
81 faulty, careless or negligent manner;

82 (8) Aiding or abetting a licensed or unlicensed person to evade the
83 provisions of chapter 441 or 451 of the general statutes or any
84 regulation, permit, certificate, registration or order adopted, issued or
85 administered pursuant to said chapters;

86 (9) The making of a false or misleading statement during an
87 inspection or investigation concerning an infestation of pests, an
88 accident in applying a pesticide, misuse of a pesticide, or violation of a
89 statute, regulation, certificate, registration or order;

90 (10) The performance of arboriculture which does not meet
91 generally accepted industry standards;

92 (11) The performance of work, whether or not for compensation, in
93 a category for which the arborist is not certified; and

94 (12) The conviction of the applicant of a felony, as defined in section
95 53a-25 of the general statutes.

96 (d) Any arborist business whose certificate of registration is denied,
97 suspended or revoked shall not be eligible to reapply for a certificate of
98 registration until the commissioner determines that such applicant
99 may reapply.

100 (e) The commissioner shall not issue a certificate of registration or a
101 renewal of a certificate of registration to an arborist business unless
102 such arborist business submits the summary required pursuant to

103 subsection (d) of section 22a-58 of the general statutes for the previous
104 calendar year.

105 Sec. 4. (NEW) (*Effective October 1, 2013*) Each arborist business shall
106 employ at each place of business no fewer than one arborist licensed
107 pursuant to section 23-61b of the general statutes.

108 Sec. 5. (NEW) (*Effective October 1, 2013*) (a) Each arborist business
109 shall maintain records for not less than five years from the date such
110 record is made or amended, whichever is later. The record shall
111 indicate: (1) For each application of a pesticide made on behalf of the
112 business, (A) the name and certification number of the commercial
113 supervisor and the commercial operator, (B) the kind and amount of
114 pesticide used and the amount of acreage treated, if applicable, (C) the
115 date and place of application, (D) the pest treated for, and (E) the crop
116 or site treated; (2) a list of the names and corresponding Environmental
117 Protection Agency registration numbers of any pesticide applied by
118 the business; (3) the names and applicator certification numbers of all
119 certified commercial pesticide applicators, whether operator or
120 supervisory, who are employees or agents of the arborist business, and
121 a list of the types of applications that each applicator performs; and (4)
122 for each site where arboriculture not involving the use of pesticides
123 was performed: (A) The type of work performed, including, but not
124 limited to, pruning, trimming, cabling, bracing, fertilization or treating
125 cavities, (B) the date and place of work, (C) the name and license
126 number of the licensed arborist supervising the work, and (D) the
127 names of any unlicensed or licensed persons performing the work
128 under the supervision of the licensed arborist.

129 (b) Information required under subdivision (2) of subsection (a) of
130 this section may be kept separately from the records required by
131 subdivision (1) of subsection (a) of this section or may be integrated
132 with such records by including on the record of each pesticide
133 application the full name and Environmental Protection Agency
134 registration number of the pesticide used.

135 (c) All records and information required to be kept pursuant to this
136 section shall be kept at the place of business for such arborist business
137 and may be inspected by the commissioner pursuant to section 22a-59
138 of the general statutes. If the place of business for such arborist
139 business is outside of the state, the records and information shall be
140 made available to the commissioner at a location in the state not more
141 than ten days after receipt of a request for inspection from the
142 commissioner.

143 (d) Each arborist business shall, upon written request, provide any
144 customer with a copy of the record which is required to be kept
145 pursuant to this section and which pertains to arboriculture performed
146 for such customer.

147 Sec. 6. (NEW) (*Effective October 1, 2013*) Any person who violates
148 any provision of sections 2 to 7, inclusive, of this act shall forfeit to the
149 state a sum not to exceed five thousand dollars per day for each day of
150 violation. The Attorney General, upon complaint of the commissioner,
151 shall institute a civil action to recover such forfeiture in the superior
152 court for the judicial district of Hartford. All actions brought by the
153 Attorney General shall have precedence in the order of trial as
154 provided in section 52-191 of the general statutes.

155 Sec. 7. (NEW) (*Effective October 1, 2013*) In any proceeding regarding
156 the denial, suspension or revocation of a certificate of registration, and
157 any proceeding pursuant to section 3 of this act, the action, omission or
158 failure to act of any officer, agent or other person acting for or
159 employed by the arborist business shall be deemed to be the action,
160 omission or failure to act of the arborist business as well as that of the
161 person employed.

162 Sec. 8. Section 23-61b of the general statutes is repealed and the
163 following is substituted in lieu thereof (*Effective October 1, 2013*):

164 (a) No person shall advertise, solicit or contract to do arboriculture
165 within this state at any time without a license issued in accordance

166 with the provisions of this section, except that any person may
167 improve or protect any tree on such person's own premises or on the
168 property of such person's employer without securing such a license
169 provided such activity does not violate the provisions of chapter 441,
170 subsection (a) of section 23-61a or this section. Application for an
171 examination for such license shall be made to the Commissioner of
172 Energy and Environmental Protection and shall contain such
173 information regarding the applicant's qualifications and proposed
174 operations and other relevant matters as the commissioner may
175 require and shall be accompanied by a fee of [fifty] two hundred
176 dollars which shall not be returnable.

177 (b) The commissioner shall require the applicant to show upon
178 examination that the applicant possesses adequate knowledge
179 concerning the proper methods of arboriculture and the dangers
180 involved and the precautions to be taken in connection with these
181 operations, together with knowledge concerning the proper use and
182 application of pesticides and the danger involved and precautions to
183 be taken in connection with their application. If the applicant is other
184 than an individual, the applicant shall designate an officer, member or
185 technician of the organization to take the examination, which designee
186 shall be subject to approval of the commissioner except that any
187 person who uses pesticides in arboriculture shall be licensed to do
188 arboriculture or shall be a licensed commercial applicator under
189 chapter 441. If the extent of the applicant's operations warrant, the
190 commissioner may require more than one such member or technician
191 to be examined. If the commissioner finds the applicant qualified, the
192 commissioner shall issue a license to perform arboriculture within this
193 state. A license shall be valid for a period of five years provided the
194 commissioner may issue such licenses such that one-fifth of such
195 licenses expire each year and the commissioner may issue a license for
196 a period of less than five years and prorate the license fee accordingly.
197 If the commissioner finds that the applicant is not qualified, or if the
198 commissioner refuses to issue a license for any other reason, the

199 commissioner shall so inform the applicant in writing, giving reasons
200 for such refusal.

201 (c) The commissioner may issue a license without examination to
202 any nonresident who is licensed in another state under a law that
203 provides substantially similar qualifications for licensure and which
204 grants similar privileges of licensure without examination to residents
205 of this state licensed under the provisions of this section.

206 (d) Each licensee shall pay a license [renewal] fee of [one hundred
207 ninety] two hundred eighty-five dollars for each license or renewal. All
208 examination and license [renewal] fees shall be deposited as provided
209 in section 4-32, and any expenses incurred by the commissioner in
210 making examinations, issuing certificates, inspecting tree work or
211 performing any duties of the commissioner shall be charged against
212 appropriations of the General Fund.

213 (e) Each licensee shall maintain and, upon request, furnish such
214 records concerning licensed activities as the commissioner may
215 require.

216 (f) The commissioner may suspend for not more than ten days and,
217 after notice and hearing as provided in any regulations established by
218 the commissioner, may suspend for additional periods, or the
219 commissioner may revoke, any license issued under this section if the
220 commissioner finds that the licensee is no longer qualified or has
221 violated any provision of section 23-61a or this section, or any
222 regulation adopted thereunder.

223 (g) The Commissioner of Energy and Environmental Protection, in
224 consultation with the board, shall establish standards for examining
225 applicants and reexamining applicators with respect to the proper use
226 and application of pesticides and agricultural methods. Such standards
227 shall provide that in order to be certified, an individual shall be
228 competent with respect to the use and handling of pesticides or the use
229 and handling of the pesticide or class of pesticides covered by such

230 individual's application or certification and in the proper and safe
231 application of recognized arboricultural methods.

232 (h) Any licensed arborist shall be considered to be a certified
233 applicator under section 22a-54 with respect to the use of pesticides.

234 (i) Any person who is a certified supervisory pesticide applicator, as
235 described in section 22a-54, and who is also licensed as an arborist
236 pursuant to this section, shall not be required to pay a license fee
237 pursuant to this section provided such person pays any fee required
238 pursuant to section 22a-54.

239 Sec. 9. (NEW) (*Effective October 1, 2013*) (a) Not later than one year
240 after appointment as a tree warden, pursuant to section 23-58 of the
241 general statutes, such tree warden shall successfully complete
242 coursework as approved by the Commissioner of Energy and
243 Environmental Protection. The minimum requirements for such
244 coursework shall include: Tree biology, tree maintenance and pruning,
245 urban forest management, tree laws and administrative procedures.
246 The commissioner may administer such coursework or may, in the
247 commissioner's sole discretion, delegate responsibility to administer
248 such coursework to a professional organization capable of providing
249 such training.

250 (b) In the event that a tree warden fails to comply with the
251 provisions of subsection (a) of this section, the appointment of such
252 tree warden shall become null and void and a new tree warden shall
253 be appointed pursuant to section 23-58 of the general statutes.

254 (c) Upon written request of the chief elected official of the
255 municipality that appointed a tree warden, a six-month extension of
256 time may be granted for the purpose of the completion of the
257 coursework required pursuant to subsection (a) of this section.

258 (d) Each tree warden shall maintain a record of the completion of
259 the coursework required pursuant to subsection (a) of this section and,

260 upon request, furnish such records to the commissioner or the
261 commissioner's designee, and the municipal official who appointed
262 such tree warden.

263 (e) Any tree warden who successfully completes the Tree Wardens
264 Association of Connecticut coursework prior to the effective date of
265 this section shall be deemed by the commissioner to have successfully
266 completed the coursework required by this section provided that not
267 later than December 31, 2013, a duly authorized officer of the Tree
268 Wardens Association of Connecticut certifies to the commissioner, in
269 writing, that such tree warden has successfully completed the Tree
270 Wardens Association of Connecticut coursework.

271 (f) The commissioner, or the commissioner's designee, may charge a
272 reasonable fee to cover the costs associated with the coursework
273 required pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	23-61b
Sec. 9	<i>October 1, 2013</i>	New section

Statement of Purpose:

To establish a requirement that arborist businesses be licensed and to establish coursework requirements for tree wardens.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]